A BILL FOR AN ACT

CONCERNING A REQUIREMENT TO SHARE THE WHOLESALE ACQUISITION COST OF A DRUG WHEN SHARING INFORMATION CONCERNING THE DRUG WITH ANOTHER PARTY.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill requires a drug manufacturer or wholesaler, or an agent or an employee of the manufacturer or wholesaler, to provide, in writing, the wholesale acquisition cost of a prescription drug to an entity or individual with whom the manufacturer, wholesaler, agent, or employee is sharing information concerning the drug.
The bill also requires the drug manufacturer or wholesaler, or an agent or employee of the manufacturer or wholesaler, to provide educational materials about the acquisition costs of other prescription drugs in the same therapeutic class.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add 12-42.5-308 as follows:

12-42.5-308. Manufacturer, agent, representative, employee - drug cost information - required - definitions. (1) A manufacturer, or a representative, agent, or employee of a manufacturer, who while employed by or under contract to represent a manufacturer engages in prescription drug marketing, shall provide to a prescriber, in writing, the wholesale acquisition cost of a prescription drug when, in the course of conducting business, the manufacturer, representative, agent, or employee provides information concerning the drug to the prescriber.

(2) (a) When providing the information required by subsection (1) of this section, a manufacturer, or a representative, agent, or employee of a manufacturer, shall also provide notice of the existence of any generic prescription drugs or biosimilars from the same therapeutic class, or if three are not available, as many as are available for prescriptive use.

(b) For the purposes of this section:

(I) "prescriber" means a health care provider licensed pursuant to this title 12 who is authorized to prescribe controlled substances or prescription drugs.

(II) "prescription drug marketing" means any activity
UNDERTAKEN WITH THE INTENT TO SELL A PRESCRIPTION DRUG THAT MAY INCLUDE IN-PERSON MEETINGS, PHYSICAL MAILINGS, TELEPHONIC CONVERSATIONS, VIDEO CONFERENCING, ELECTRONIC MAILING OR TEXTING, OR FACSIMILE TRANSMISSIONS THAT PROVIDES EDUCATIONAL OR MARKETING INFORMATION OR MATERIALS REGARDING A PRESCRIPTION DRUG.

(III) "THERAPEUTIC CLASS" MEANS A GROUP OF SIMILAR DRUGS THAT HAVE THE SAME OR SIMILAR MECHANISMS OF ACTION AND ARE USED TO TREAT A SPECIFIC CONDITION.

SECTION 2. In Colorado Revised Statutes, add to article 280 as relocated by House Bill 19-1172 12-280-308 as follows:

12-280-308. Manufacturer, agent, representative, employee - drug cost information - required - definitions. (1) A MANUFACTURER, OR A REPRESENTATIVE, AGENT, OR EMPLOYEE OF A MANUFACTURER, WHO WHILE EMPLOYED BY OR UNDER CONTRACT TO REPRESENT A MANUFACTURER ENGAGES IN PRESCRIPTION DRUG MARKETING, SHALL PROVIDE TO A PRESCRIBER, IN WRITING, THE WHOLESALE ACQUISITION COST OF A PRESCRIPTION DRUG WHEN, IN THE COURSE OF CONDUCTING BUSINESS, THE MANUFACTURER, REPRESENTATIVE, AGENT, OR EMPLOYEE PROVIDES INFORMATION CONCERNING THE DRUG TO THE PRESCRIBER.

(2) (a) When providing the information required by subsection (1) of this section, a manufacturer, or a representative, agent, or employee of a manufacturer, shall also provide notice of the existence of any generic prescription drugs or biosimilars from the same therapeutic class, or if three are not available, as many as are available for prescriptive use.

(b) For the purposes of this section:
"Prescriber" means a health care provider licensed pursuant to this title who is authorized to prescribe controlled substances or prescription drugs.

(Prescription drug marketing" means any activity undertaken with the intent to sell a prescription drug that may include in-person meetings, physical mailings, telephonic conversations, video conferencing, electronic mailing or texting, or facsimile transmissions that provides educational or marketing information or materials regarding a prescription drug.

(Therapeutic class" means a group of similar drugs that have the same or similar mechanisms of action and are used to treat a specific condition.

SECTION 3. Act subject to petition - effective date. (1) Except as otherwise provided in subsection (2) of this section, this act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 2, 2019, if adjournment sine die is on May 3, 2019); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) Section 2 of this act takes effect only if House Bill 19-1172 becomes law, in which case section 2 takes effect October 1, 2019.